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Report of the Secretary-General on the activities of the Office of Internal Oversight Services

Report of the Office of Internal Oversight Services on the capital master plan for the period from August 2004 to July 2005

Summary

From August 2004 to July 2005, the Office of Internal Oversight Services (OIOS) provided continuous audit coverage of activities relating to the capital master plan project, as well as the construction phase of the security strengthening project, as mandated by the General Assembly in its resolution 57/292. Such oversight activities were intended to determine whether adequate internal controls had been established and implemented by the capital master plan office, the Department of Management and other United Nations departments and offices responsible for the execution of the project.

Based on its review, OIOS concluded that the resources appropriated by the General Assembly for capital master plan-related activities had generally been utilized in accordance with the Financial Regulations and Rules of the United Nations. However, OIOS found that the United Nations operating procedures, documents related to construction contracts and contract language utilized by the capital master plan office needed to be improved by, for example, clarifying contract language to avoid ambiguity thereby ensuring that the project would be implemented efficiently and economically.

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During the reporting period, OIOS issued audit observations and provided its comments and recommendations to responsible officials during meetings or immediately after its review of the documents provided by the capital master plan office to ensure that they could be taken into account in the preparation of final contract documents and in the context of the final approval of the scope confirmation report.

In view of the complexity of the United Nations Headquarters refurbishment, the capital master plan office utilizes a scope confirmation approach, which involves continuous review of information obtained from all stakeholders on their functional needs and requirements to ensure that their needs are adequately addressed in the design documents. OIOS believes that the scope confirmation process has established the parameters to translate the information obtained from the stakeholders into design documents with a minimum amount of errors, omissions and ambiguity and to track scope changes during the design development stage.

In order to undertake the refurbishment, "swing space" is needed to house the Secretariat offices and provide conference and meeting space for the various committees of the Organization. The original refurbishment schedule provided that the construction of a new building (UNDC-5) to provide the swing space was to start in January 2004 and be substantially completed in December 2005, which would have allowed for relocation into UNDC-5 between January and June 2006 with refurbishment construction to start at about the same time.

Owing to circumstances beyond the Organization's control, the construction of UNDC-5 is significantly behind schedule. To minimize the overall delay of the refurbishment project, the capital master plan office believes that there is a pressing need to identify alternative swing space for occupancy in 2007.

In March 2005, the capital master plan office entered into a contract with a commercial real estate broker to provide real estate advisory services and to assist in identifying alternative swing space for occupancy in 2007. In the view of OIOS, the process used for selecting the commercial real estate broker was transparent and fair.

OIOS noted that an advisory board was to be formed to advise the Secretary-General on financing matters and to provide advice on overall project issues. The advisory board, although proposed by the Secretary-General and concurred in by the General Assembly in its resolution 57/292, was never established. Since the capital master plan office operations are becoming progressively more complex, OIOS believes that it is imperative that the need for the advisory board be re-examined without further delay in order to ensure that the capital master plan project moves forward as planned.

OIOS will continue to carry out its oversight responsibilities, which will concentrate on reviewing the functional relocation programme as well as the deliverables of the programme manager, the architectural and engineering firms and the commercial real estate broker. In order to complete the projected audit activities of the capital master plan in 2006 and through the completion of the design development phase, OIOS will require resources sufficient to provide for the services of two full-time auditors.

I. Introduction

1. Pursuant to General Assembly resolution 57/292 of 20 December 2002, the Office of Internal Oversight Services (OIOS) hereby submits its third report on the capital master plan project. The report summarizes OIOS oversight activities with respect to the operations of the capital master plan office during the period from August 2004 to July 2005. The management of the contracts awarded since the inception of the capital master plan project and the deliverables provided by the architectural and engineering firms that received those contracts are also reviewed. The report also covers activities relating to the establishment of an advisory board and the provision of swing space.

2. Between 1 January 2004 and 30 June 2005, seven contracts were awarded totalling $53,584,166. Six of the contracts relate to the design development, construction documents and construction administration phases of the capital master plan and one relates to programme management services. The most recent data available concerning the contracts is contained in the annex to the present report.

3. In June 2004, the Secretariat procured the services of a programme manager to assist the office of the capital master plan in the day-to-day management of the contracts. The programme manager function is responsible for the provision of construction advisory services, including the evaluation of contract proposals; the coordination and monitoring of construction activities; and quality assurance, document control and any other services considered appropriate.

4. In a process similar to that used for assessing the engineering and architectural contracts OIOS reviewed the requests for proposals and the related bids and best and final offers received from the professional firms shortlisted for the programme management services contract. During the reporting period, OIOS attended more than 40 meetings concerning the procurement process, the scope confirmation review process for contracts B-F (see annex) and the deliverable under contract A (functional relocation programme). OIOS provided comments and recommendations through formal and informal communication with the concerned offices.

5. OIOS is pleased to report that it has received full cooperation from the departments and offices responsible for the implementation of the plan, including the capital master plan office, the Procurement Service, the Facilities Management Service, the Office of Central Support Services and the Office of Legal Affairs. The comments of management were taken into account in the preparation of the report.

II. Office of Internal Oversight Services activities during the period August 2004-July 2005

A. Organizational structure of the capital master plan

1. Advisory Board

6. In paragraph 76 of his report on the capital master plan dated 28 June 2000 (A/55/117), the Secretary-General indicated that, in considering the important issue of financing options for meeting the cost of the capital master plan, Member States might wish to note the Secretary-General's intention to establish a five-member expert financial advisory group, composed of financial experts and eminent persons,

to assist him in examining and exploring all possible financing options, as well as identifying possible sources of voluntary contributions.

7. In a subsequent report dated 8 August 2002 (A/57/285 and Corr.1), the Secretary-General indicated, in paragraph 66, that an advisory board, which was originally referred to as a financial advisory board, was being formed to advise the Secretary-General on financing matters and to provide advice on overall project issues.

8. The General Assembly, at its fifty-seventh session, having considered the report of the Secretary-General on the capital master plan, adopted resolution 57/292, in which it stated in section II, paragraph 19, that it concurred with the intention of the Secretary-General to establish an independent and impartial advisory board and requested him, in establishing the board, to reflect wide geographical representation. In paragraph 23 of the same resolution the General Assembly requested the Secretary-General to issue a corrigendum to his report (A/57/285) to reflect the organizational structure of the Secretariat for managing the capital master plan, both at present and over the course of its implementation. The corrigendum (A/57/285/Corr.1), dated 6 January 2003, indicated the proposal for an advisory board reporting directly to the Secretary-General.

9. OIOS noted that although the Secretariat had started to implement resolution 57/292, the advisory board had not been established as intended by the Secretary-General. The failure to establish the advisory board effectively means that the Secretary-General has not been provided with, in the way originally intended, assistance in exploring all possible financing options or in the identification of possible sources of voluntary contributions or advice on overall project issues.

10. No evidence was made available to OIOS to indicate that the General Assembly had been officially notified that the advisory board had not been formed or that the capital master plan office had explored all possible avenues to solicit private sector financial institutions for financial assistance.

11. In the absence of an advisory board, the capital master plan office, in order to move the project forward, was required to undertake initiatives on behalf of the Secretary-General without the assistance or advice of an independent board regarding financing matters and overall project development. In the view of OIOS, the selection of options concerning swing space, funding and design concepts should be considered carefully at the highest levels of the Organization.

2. Executive Director

12. The situation resulting from the lack of an advisory board was further compounded by the vacancy of the post of Executive Director of the capital master plan project. In its report on the capital master plan for the period from August 2003 to July 2004 (A/59/420), OIOS indicated that with the departure of the Executive Director in February 2004, the Office had, since April 2004, been headed by an officer-in-charge at the D-1 level (with a special post allowance to D-2). OIOS is pleased to note that the Secretary-General has recently appointed a new Executive Director.

B. The need for "swing space"

13. In paragraphs 55 to 65 of his report dated 28 June 2000 (A/55/117), the Secretary-General outlined several construction options for providing the swing space required to house the Secretariat offices and provide conference and meeting space for the various committees of the Organization. The off-site option was to construct a building in the vicinity of the United Nations. The on-site options were as follows:

(a) Constructing an addition to the existing building;

(b) Constructing an addition above the existing South Annex building or replacing the building altogether;

(c) Constructing a low-rise building at the north end of the Headquarters site.

14. The most viable alternative chosen for the refurbishment was constructing of a building in the vicinity of the United Nations to provide swing space that would accommodate not only the Secretariat, but also the functions of the General Assembly and all other conferences and meetings. Due to the large swing space requirements, the capital master plan office determined that assistance from the host city was needed. The host city was prepared to render as much support as possible for the capital master plan. It was proposed that the United Nations Development Corporation (UNDC), an arm of the City and State of New York, would construct a new building (UNDC-5) consisting of approximately 750,000 to 800,000 square feet immediately south of the United Nations Headquarters complex, between 41st and 42nd Streets on First Avenue. The building would then be used for both meeting rooms and offices during the capital master plan refurbishment period. However, the host city indicated that it had to obtain a number of public approvals before a decision could be taken to proceed with such construction.

15. On the basis of that understanding, the capital master plan office in July 2003 issued a request for proposals soliciting professional architectural and engineering firms to provide design services for the refurbishment, which included mention of UNDC-5 as the swing space. As a result, the construction of UNDC-5 became an integral part of the refurbishment schedule. According to the request for proposals, the preliminary schedule showed that UNDC-5 construction was to start in January 2004 and be substantially completed by December 2005, which would have allowed the United Nations to start relocating into UNDC-5 between January and June 2006, with refurbishment construction to start at about the same time.

16. However, the construction of UNDC-5, which the office had relied on as the sole swing space for the refurbishment project, has not yet begun, since the legislature of the host state has not approved the proposal for use of the land. According to the revised schedule, the construction of UNDC-5 is at least two years behind schedule owing to a variety of factors. Faced with this latest development and to minimize the overall delay, the capital master plan office concluded that there was a pressing need to identify an alternative swing space option for occupancy in 2007.

17. In December 2004, the capital master plan office issued a request for proposals soliciting commercial real estate brokers to provide advisory services in identifying alternative swing space options for offices and conference facilities. Six commercial

real estate brokers submitted proposals and were invited to make verbal presentations. In March 2005, the office entered into a contract with one of them. In the view of OIOS, the procurement process for selecting the commercial real estate broker was transparent and fair.

18. OIOS notes that the acquisition of swing space is critical for the refurbishment construction plan, and the lack of such space constitutes a bottleneck in the project's continued progress. Furthermore, all of the scope confirmation reports approved by the capital master plan office for contracts B-F and the approved relocation programme plan under contract A were based on the assumption that UNDC-5 would be used as the swing space. If approval for the construction of UNDC-5 remains uncertain, OIOS believes that the United Nations will have to amend the scope confirmation reports at an additional cost for contracts B-F and the approved relocation programme plan of contract A to reflect a new swing space.

C. Review of contracts executed by professional architectural and engineering firms

19. During the reporting period, OIOS carried out oversight activities relating to the capital master plan as described below. It also reviewed selected payments made to various contractors. OIOS generally provided its comments and recommendations immediately, during meetings with the capital master plan office, or shortly after its review of the documents provided by the office to ensure that such comments and recommendations could be taken into account when preparing the final contract documents or approving the scope confirmation reports. As oversight activities are conducted on a real-time basis, OIOS used this method for reporting its observations to ensure that they were considered as soon as possible. OIOS notes that the capital master plan office implemented most of the recommendations of OIOS.

20. Based on its audits to date, OIOS concluded that the resources appropriated by the General Assembly for capital master plan activities were being utilized in accordance with the Financial Regulations and Rules of the United Nations. However, OIOS found that the United Nations contract language for construction and related contracts needed to be further improved in order for the project to be efficiently and economically implemented and to adequately protect United Nations assets.

1. Programme management services

21. In its previous report, OIOS showed that it had performed an audit to assess whether the standard United Nations documents used in the procurement of construction-related services, including requests for proposals, contracts, general conditions, general requirements and special conditions, were adequate for the capital master plan. OIOS concluded that the current United Nations procedures for the procurement of construction-related services should be strengthened to accommodate the complexity and magnitude of the capital master plan project.

22. Based in part on the recommendations of OIOS, the capital master plan office in 2004 entered into a contract with a professional firm to provide programme management services. OIOS observed that the professional firm had started to address the deficiencies reported by OIOS concerning the procedures for the procurement of construction-related services. For example, the firm had begun to

develop a comprehensive project management plan, including policies, procedures and guidelines, and a manual for the design development phase of the refurbishment project.

23. OIOS attended several meetings with representatives of the firm and observed their performance during various interactions with architectural and engineering firms responsible for the design of contracts B-F and contract A for functional and relocating programming; commercial real estate brokers during verbal presentations for alternative swing space; and architectural and engineering firms during verbal presentations on contract G (curtain wall and exterior envelope). OIOS will continue to monitor and review the project management plan as well as the policies, procedures, guidelines and a manual prepared by the professional firm as the refurbishment progresses.

2. Contract clauses

24. OIOS reviewed the clauses in contracts A-G and issued observations on each contract. OIOS also assessed whether the standard United Nations language in the various clauses in the contract documents was clear and adequate for construction or construction-related contracts let by the capital master plan office. As discussed below, OIOS made recommendations to strengthen the standard language pertaining to key contract requirements for the procurement of construction-related services to accommodate the complexity and magnitude of the capital master plan project and to ensure adequate protection of United Nations assets.

25. For example, under article 5, "Services", of the standard contract, the language needs to be clearly defined. In article 5.6, the phrase "implement procedures" is not defined as to whose procedures apply and there is no reference to any existing procedures. Therefore, is the professional firm responsible for issuance of the procedures or is the United Nations? If the professional firm is responsible, the contract should reflect this and include a requirement for United Nations concurrence with the procedures.

26. Similarly, the terms set out under article 12, "Certain remedies of the professional firm", need to be more clearly defined. For example, article 12 provides that in the "event of default" by the United Nations, the professional firm shall promptly give written notice to the United Nations detailing the circumstances giving rise to such event. The phrase "event of default" should be adequately defined in the contract.

3. Scope confirmation

27. As part of its effort to deal with the complexity of the refurbishment design development phase, the capital master plan office utilized a scope confirmation approach. This approach involves obtaining information from all stakeholders on their functional needs and requirements to ensure that their needs are addressed. The Office is thus given the opportunity to communicate these requirements to the different professional architectural and engineering firms for inclusion in their plans. The scope confirmation process ensures that the work of the professional architectural and engineering firms is well coordinated and that there is a clear demarcation of responsibilities. The final scope confirmation reports accepted by the capital master plan office become the basis for preparing the project's scope and design documents.

28. OIOS observed the scope confirmation process and reviewed the preliminary scope confirmation reports submitted by the professional firms. Its comments and suggestions were considered by the capital master plan office during the approval of the final scope confirmation reports. In the opinion of OIOS, while the scope confirmation process is unique to the capital master plan project in the United Nations, it is in line with the construction industry practice called "programme of requirements". OIOS believes that the scope confirmation process has provided a coordination mechanism for the scope and design documents based on the information obtained from the stakeholders and will minimize errors, omissions and ambiguity and facilitate the tracking of scope changes during the design development stage.

D. Contract G: curtain wall and exterior envelope

29. In February 2005, the United Nations Procurement Service issued a request for proposals for the "curtain wall and exterior envelope", which is the glass and stone work that protects the building from the weather. Five firms submitted proposals for the work, which were evaluated for technical competence. The firms were also invited to make verbal presentations. Those presentations have been completed and the capital master plan office has submitted its final assessment identifying professional firms that are technically competent and acceptable. At the time the present report was drafted, the Procurement Service was reviewing the commercial proposals received from those firms identified as being technically competent.

30. OIOS observed that the proposals received from the interested firms had been jointly reviewed and evaluated by both the capital master plan project technical team, including the project management consultant, and representatives from the Facilities Management Division, Office of Central Support Services. Each member of the panel made an independent evaluation of the proposals and the verbal presentations using a standardized format and scoring criteria. The panel then tabulated the results and combined the scores of the technical evaluation of the proposal and verbal presentation to determine which firms were technically qualified to perform the job.

31. OIOS is of the view that the process used for selecting the firm for the study of the curtain wall and exterior envelope has been transparent and fair.

E. Security strengthening project at United Nations Headquarters

32. At the fifty-ninth session of the General Assembly, OIOS reported on the security strengthening project at United Nations Headquarters (A/59/420). The capital master plan office is responsible for managing the ongoing construction work for the project. As at the date of the present report, the construction work for the project was more than six months behind schedule and additional costs of over $2.5 million had already been incurred. According to information obtained from the capital master plan office, on 8 June 2005, the contractor, who did not complete the work on schedule, submitted a claim for additional compensation and requested an extension of the contract by eight months to complete the construction work. The revised schedule of work submitted by the contractor shows that the construction

work would be completed by February 2006 instead of the original June 2005 completion date.

33. The audit findings of OIOS and its recommendations concerning the security strengthening project are detailed in a separate report, as requested by the General Assembly in its resolution 59/276.

III. Conclusions

34. The issue of financing the capital master plan project is still under discussion by the Member States. At the same time, the issue of using a new building, UNDC-5, as swing space as originally envisaged is far from settled. This leaves no option other than to look to the commercial market for available office and meeting space to meet the requirements for occupancy in 2007. There is a need to resolve the issue of swing space as soon as possible in order to provide the capital master plan office with a clear and definite direction with regard to proceeding further with the planning of refurbishment construction.

35. As in the previous reporting period, the resources allotted to OIOS from the appropriation for the capital master plan during the current reporting period allowed for the recruitment of one auditor on a short-term temporary assistance basis. Although the level of the post was upgraded as from January 2005, that level of funding is still not considered by OIOS to be sufficient to provide the oversight coverage intended by the General Assembly in its resolution 57/292. Again, in order to carry out the required audit activities, OIOS had to devote the services of an additional auditor exclusively to the capital master plan.

36. In the next reporting period, OIOS will concentrate on reviewing the functional relocation programme as well as the deliverables of the programme manager, the architectural and engineering contractors, and the commercial real estate broker. The projected audit activities of the plan in 2006 and the ensuing period through the completion of the design development phase would require at least 600 workdays (two full-time auditors) for oversight activities. OIOS therefore reiterates its request that: (a) oversight resources be increased to provide for the services of two full-time auditors, and (b) temporary assistance funding for OIOS be converted to actual posts for the duration of the project. Failure to obtain those resources would significantly reduce audit coverage of the capital master plan as mandated by the General Assembly in its resolution 57/292.

IV. Recommendations[1]

Recommendation 1

37. OIOS recommends that the Secretary-General establish an advisory board as proposed in his report (A/57/285 and Corr.1) and concurred in by the General Assembly in its resolution 57/292. Should the Secretary-General envisage a different approach regarding the provision of expert advice, the General Assembly should be informed accordingly (AC/2005/514/01/01).

[1] The symbols in parentheses are internal codes used by OIOS to record recommendations.

Recommendation 2

38. In view of the uncertainty surrounding the construction of the UNDC-5 building, OIOS recommends that the Secretary-General provide the General Assembly with additional options for meeting the need for temporary office and meeting space, which is a necessary prerequisite for completion of the capital master plan design development phase and planning of the refurbishment construction schedule (AC/2005/514/01/03).

(*Signed*) Inga-Britt **Ahlenius**
Under-Secretary-General for Internal Oversight Services

Annex

Contracts for the capital master plan (design development, construction document and construction administration phase)

(in United States dollars)

Contract	*Capital master plan component*	*Contract signature date*	*Total contract amount*	*Amount obligated to date*	*Amount paid to date*	*Obligation balance amount*
A	Functional relocation programme	2/1/04	857 825	738 675	537 455	201 220
B	Infrastructure, basement, garage, North Lawn and United Nations Institute for Training and Research Building	25/6/04	12 269 173	3 847 527	768 650	3 078 877
C	General Assembly and Conference Buildings	25/6/04	11 534 853	2 883 713	518 667	2 365 046
D	Secretariat and South Annex Buildings	22/9/04	6 734 419	1 740 605	351 355	1 389 250
E	Dag Hammarskjöld Library Building	25/6/04	2 077 967	519 492	96 558	422 934
F	Security	25/6/04	4 212 440	1 153 924	168 250	985 674
G	Curtain wall and exteriors envelope	Contractor selection in process				
Programme management services	Programme manager	04/10/04	15 897 489	2 279 099	1 083 792	1 195 307
Real estate	Swing space survey	03/3/05	75 000	75 000	—	75 000
Space programming	Programme space relocation and planning presentations	06/2/04	8 330	4 110	4 110	—
Security	Threat and risk assessment study	17/8/04	22 950	22 950	22 950	—
Legal	Construction counsel	21/5/04	50 000	50 000	19 827	30 173
Legal	Arbitration counsel	17/1/05	86 610	86 610	—	86 610
Total			**53 827 056**	**13 401 705**	**3 571 614**	**9 830 091**

Note: The Department of Management provided the information contained in this table, which was obtained from the United Nations accounting system as at 31 July 2005.